

**FEB 17 2006**

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**U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

CHARLES E. LIGHTNER, JR.,

Plaintiff - Appellant,

v.

PROSPECT ENTERPRISES, INC., a  
California corporation, dba American Fish  
and Seafood Company,

Defendant - Appellee.

No. 04-16169

D.C. No. CV-03-00109-HDM

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the District of Nevada  
Howard D. McKibben, District Judge, Presiding

Submitted February 15, 2006<sup>\*\*</sup>  
San Francisco, California

Before: HALL, SILVERMAN, and GRABER, Circuit Judges.

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Charles Lightner appeals the district court's grant of summary judgment to Prospect Enterprises, Inc., d/b/a American Fish and Seafood Company, on his tortious discharge claim. We affirm.

Lightner undisputedly failed to report the allegedly fraudulent conduct at issue to the appropriate authorities, as required under Nevada law. *See Allum v. Valley Bank of Nevada*, 970 P.2d 1062, 1064 & n.2 (Nev. 1998); *Wiltsie v. Baby Grand Corp.*, 774 P.2d 432, 433 (Nev. 1989) (per curiam). Therefore, he did not make out a prima facie claim for tortious discharge, and summary judgment was appropriately granted.

**AFFIRMED.**